

**MINUTES  
of the  
FIFTH MEETING  
of the  
SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE**

**October 19-20, 2015  
Room 311, State Capitol  
Santa Fe**

The fifth meeting of the Science, Technology and Telecommunications Committee (STTC) was called to order by Representative James E. Smith, chair, on Monday, October 19, 2015, at 10:10 a.m. in Room 311 at the State Capitol in Santa Fe.

**Present**

Rep. James E. Smith, Chair  
Sen. Michael Padilla, Vice Chair  
Sen. William F. Burt  
Rep. Stephanie Garcia Richard  
Rep. Jason C. Harper  
Sen. Bill B. O'Neill  
Rep. Debbie A. Rodella  
Rep. Carl Trujillo  
Rep. John L. Zimmerman

**Advisory Members**

Sen. Carlos R. Cisneros  
Rep. Kelly K. Fajardo  
Sen. Richard C. Martinez  
Rep. Nick L. Salazar  
Rep. Luciano "Lucky" Varela  
Rep. Monica Youngblood

**Absent**

Sen. Daniel A. Ivey-Soto  
Rep. Conrad James  
Rep. Bill McCamley  
Sen. John C. Ryan

Sen. Jacob R. Candelaria  
Sen. Ron Griggs  
Rep. Antonio Maestas  
Sen. Steven P. Neville  
Sen. Mary Kay Papen  
Sen. William H. Payne  
Sen. Nancy Rodriguez  
Sen. Peter Wirth

**Staff**

Ralph Vincent, Legislative Council Service (LCS)  
Nancy Martinez, LCS  
Alexandria Tapia, LCS

**Guests**

The guest list is in the meeting file.

## **Handouts**

Handouts and other written testimony are in the meeting file and are located on the New Mexico Legislature website ([www.nmlegis.gov](http://www.nmlegis.gov)). Please see handouts for more presentation details.

## **Monday, October 19**

### **Introductions**

The chair welcomed everyone to the fifth meeting of the STTC and invited members of the committee and staff to introduce themselves.

### **Statewide Victim Notification System, Case Management System (CMS) and Paperless Project**

Henry Valdez, director, Administrative Office of the District Attorneys (AODA), presented the agency's current projects to the committee. Mr. Valdez began by introducing the other district attorneys present at the meeting. The AODA is responsible for providing administrative and technical support for all 14 judicial districts in the state through the standardization and coordination of staff development, human resources, fiscal guidance, central victim notification, development and implementation of an automated case management and tracking system and by acting as the central communication link with other criminal justice agencies. Mr. Valdez highlighted some of the agency's major accomplishments for fiscal year (FY) 2015.

Eddy Chavez, information technology (IT) manager, AODA, discussed the technological services and capabilities of the AODA. The IT provided by the AODA is separate from the Department of Information Technology (DoIT), with its network operations center housed in Albuquerque. Mr. Chavez provided background on the AODA's statewide victim notification and case management systems. The victim notification system provides information to all victims that registered; in FY 2015, more than 85,000 notifications were disseminated via the system. The CMS allows its more than 2,000 external users to track the progression of a case. Mr. Valdez emphasized the importance of the statewide CMS to district attorneys and law enforcement officers, which transcends jurisdictional limitations. The CMS also allows for reporting, which can provide interested parties with data on how many types of cases were prosecuted.

Mr. Chavez explained that security is a major issue for and of concern to the AODA due to the sensitive nature of material in its database. The last security audit on the system was conducted over four years ago. The AODA views the lack of funding for crucial security systems as a critical issue and a top priority moving forward. The agency has not received enough funding for IT in the last few years. There is a continuous need to replace aging software and hardware, as well to address security vulnerabilities.

The agency is requesting a total of \$1,140,064 to aid in the support and expansion of these projects. This request includes funding for personnel, software contracts and IT equipment. Mr. Valdez provided a breakdown of the request with an explanation for how the funding would be used.

Several district attorneys stood to testify to the importance of the programs and the need for continual funding and support of them. It was expressed that the programs are vital not just to the district attorneys, but to the safety of the residents of New Mexico. Because confidential information is held in these programs, it is crucial that the information is protected against external threats. A district attorney from the First Judicial District reported that the district is completely wireless at this time, which is very efficient. The system is great for personnel to be able to access information anywhere and anytime.

Members of the committee and the presenters discussed several topics, including:

- the agency's coordination with the DoIT;
- ramifications of not being a part of the DoIT;
- concern over duplication of processes, tasks and expenditures;
- clarification of budget requests — one-time requests versus recurring funding;
- other agencies that have access to the system;
- retention of employees, particularly in IT; and
- access to the internet in the different districts and the types of providers being used.

## **Unspam**

Eric Langheinrich, chief executive officer (CEO) and cofounder, Unspam, addressed the committee regarding the potential for a New Mexico child protection registry. The registry would allow for families to register their contact points for free, i.e., email addresses, mobile phone numbers and instant messenger/social networking accounts. Registered addresses are protected from adult-oriented marketing for items that are otherwise prohibited to be purchased by minors. Creating a registry would impose no fiscal impact to New Mexico taxpayers. Only adult-product marketers will pay a small fee to check each entry on their sending lists. The fee covers the administration of the program, and any revenue generated from the fees would be earmarked to fund the enforcement of state laws to protect children online. Mr. Langheinrich explained that the registry is a one-way process through "hashing", meaning the state list cannot be accessed by the marketers or the state. Sign-up is secure and simple for users. Two other states have passed legislation enacting a child protection registry: Utah and Michigan.

Michelle Scharf, vice president of government relations, Unspam, explained the need for a state registry. According to her presentation, children as young as two are spending more and more time on computers, tablets and cell phones. While laws are in place that limit the marketing of adult products to children in stores, there is nothing on radio or television or in magazines limiting electronic marketing. Ms. Scharf shared the successes and challenges of the programs in Utah and Michigan since their implementation in 2004. Ms. Scharf added that

adoption of a child protection registry is likely to follow the development of the National Do Not Call Registry.

In response to questions from the committee, the following topics were addressed:

- legislation introduced during the 2015 session regarding a child protection registry (House Bill (HB) 237);
- how the program is implemented;
- impact and cost in Utah and Michigan since enacting legislation;
- the scope of the program and its ability to block specific items;
- revenue potential;
- enforcement and violation penalties for the registry;
- other companies offering similar services;
- applications that are being used by minors that gather information; and
- the need for public awareness regarding information being collected from minors.

Members of the committee requested information from the Office of the Attorney General (OAG) regarding its stance on HB 237 and whether or not it agrees with the associated fiscal impact report. The committee also recommended that the OAG release a consumer notice regarding certain social media applications, specifically "Jott Messenger", which is being used by minors, and their collection of user information.

#### **FatPipe ABQ Technology Start-Up Incubator Model**

Lisa J. Adkins, chief operating officer and director, FatPipe ABQ, provided background on the business incubator. FatPipe ABQ is a unique, collaborative, community co-working space that brings start-ups, existing businesses and entrepreneurs together in downtown Albuquerque. It is a state-of-the-art facility that seeks to connect like-minded professionals and entrepreneurs with necessary business amenities. Ms. Adkins explained the open concept model and how companies have benefited from working together. The company is privately funded by founder Stuart Rose. Ms. Adkins also talked about the original incubator founded by the group — the BioScience Center. The BioScience Center has experienced tremendous success and maintains full occupancy. The center is a high-tech laboratory focused on nurturing bioscience and life science start-ups.

The committee discussed the following points with Ms. Adkins:

- the duration of stay for entrepreneurs;
- rates for rental space and opportunities for investing;
- the need for private sector support and community interest;
- education and resources for members on managing intellectual property;
- the hosting of networking events to encourage resource exchanges;
- successes of incubator graduates; and

- the creation of a new charter school that aims to teach entrepreneurship to high school students.

The chair requested that Ms. Adkins share information about upcoming open house events with the STTC through staff.

### **Kit Carson Broadband**

Luis Reyes, CEO and general manager, Kit Carson Electric Cooperative, Inc., updated the committee on the company's broadband project. Mr. Reyes provided background on the company, which is a member-owned, nonprofit electric distribution co-op founded in 1937. As the second-largest co-op in New Mexico, Kit Carson Electric serves 29,484 members in Taos, Colfax and Rio Arriba counties, including two tribes: the Pueblo of Taos and the Pueblo of Picuris. The co-op currently provides electric, internet, telecommunications and propane services. The most recent project is fiber-to-the-home (FTTH) implementation. FTTH seeks to revolutionize northern New Mexico communities with affordable and accessible high-speed broadband services, while creating a model for rural communities. Mr. Reyes highlighted some of the benefits this installation will bring to the surrounding communities.

A member of the committee praised Kit Carson Electric for its dedication to the community, lauding it as a role model for service. The STTC questioned Mr. Reyes about the following aspects of the presentation:

- service and package options for customers;
- problems facing rural New Mexico regarding reliable connectivity;
- the need for collaboration among co-ops;
- the federal Connect America Fund and options for Kit Carson Electric to apply during the second round of applications;
- other opportunities for funding;
- the average cost of fiber drops;
- issues with RediNet and current negotiations;
- an explanation of the technology and testing of speeds;
- Kit Carson's marketing strategy; and
- legislators' role in developing a comprehensive statewide plan.

### **Recess**

The meeting recessed at 3:40 p.m.

### **Tuesday, October 20**

#### **House Memorial (HM) 24 (2015), Abusive Telemarketing Practices**

Sandra Skogen, associate general counsel, Public Regulation Commission (PRC), presented the study findings of abusive telemarketing practices prompted by the passage of HM 24. HM 24 requested the OAG and the PRC to study ways to enforce the federal Telemarketing

and Consumer Fraud and Abuse Prevention Act, recommend state legislation to further protect New Mexico residents against deceptive and abusive telemarketing practices and produce a report of recommendations. The presentation focused primarily on the federal regulation of telemarketing under the National Do Not Call Registry, Telemarketing and Consumer Fraud and Abuse Prevention Act, the Federal Trade Commission's (FTC's) Telemarketing Sales Rule and the federal Telephone Consumer Protection Act of 1991. Ms. Skogen noted that state law is not preempted, and New Mexico can have greater regulation as long as it does not violate any First Amendment rights. Ms. Skogen covered the details of the three federal regulations.

In June 2015, the Federal Communications Commission (FCC) issued an order addressing robocalls. This action was taken in response to a flood of consumer complaints and 19 petitions and closed perceived loopholes in FCC rules. The order confirmed that carriers and voice over internet protocol providers may implement call blocking for both individuals and businesses to stop unwanted robocalls. Businesses were not protected under earlier regulations. New Mexico has two laws relating to telemarketing practices: the Fraudulent Telemarketing Act (Section 30, Article 50 NMSA 1978) and the Unfair Practices Act (Chapter 57, Article 12 NMSA 1978).

Federal statutes are enforceable by the FTC, FCC, state attorneys general (or other authorized officers) and private rights of action. State statutes are also enforceable by the OAG, which has the authority to regulate companies but not the authority to regulate users. Joseph Yar, Esq., OAG, explained the abilities of the OAG in terms of procedures and enforcement of violations. According to Mr. Yar, the laws in place at the federal and state levels are more than adequate; however, there are often issues with gathering evidence proving a violation of those laws. Mr. Yar outlined the steps taken when a consumer files a complaint with the OAG. The OAG receives approximately 20,000 calls per year at its Consumer Protection Division.

In response to the presentation, the committee addressed the following topics with the panel:

- clarification on how the National Do Not Call Registry operates;
- cold calling of computer-generated numbers;
- the need to make registration and complaint reporting more accessible for consumers;
- consumer alerts for major scams targeting consumers; and
- specific regulations preventing the targeting of seniors and vulnerable populations.

The members of the committee expressed a concern for vulnerable populations like the elderly and the need to protect them from scams and fraud via telemarketing calls. It was suggested that the OAG reach out to senior facilities with telephone numbers for consumer protection. Individuals can call 1-888-382-1222 or go to [www.donotcall.gov](http://www.donotcall.gov) to add their telephone numbers to the National Do Not Call Registry.

### **Personal Transportation for Hire Policies**

Representative Youngblood addressed the committee regarding potential legislation of personal transportation for hire policies. Presenting with Representative Youngblood was Michael Dorsey, director of public policy, Uber. Founded in 2009, Uber is a rapidly growing transportation network company (TNC) that allows individuals to sign up as drivers and provides more options for individuals seeking transportation. Mr. Dorsey covered the technology of Uber and its user-friendly, mobile application. The application allows users to request a ride, receive a rate quote, track the route and safely monitor the ride. After the ride, the user gives the driver a star rating. Uber continuously evaluates ratings and comments to maintain the highest-quality experience on every ride. Uber currently operates in Las Cruces, Albuquerque and Santa Fe.

Representative Youngblood sponsored a bill during the 2015 legislative session that would have provided a framework for the transportation for hire industry in New Mexico. The bill, in substituted form, passed the house 56-8 but failed to pass out of the Senate Judiciary Committee. At the time, New Mexico would have been one of the first states to implement legislation relating to TNCs. To date, 23 states have passed laws creating a framework for TNCs. In March 2015, major insurance companies and insurance associations adopted an insurance model that would extend coverage to TNCs and TNC drivers. Representative Youngblood intends once again to sponsor the legislation in the upcoming session.

On questioning, Representative Youngblood and the committee members discussed the following topics:

- the growth in popularity and usage of the service;
- the potential impact reduction of DWIs by increasing alternative transportation options;
- cost comparisons between taxi fares and Uber fares;
- application in rural communities;
- economic opportunity for individuals to earn extra income;
- background and driving record checks on drivers to ensure user safety;
- flexibility of use for both driver and passenger;
- the impact on the taxi industry; and
- automobile standards for drivers.

### **Light Detection and Ranging (LIDAR)**

Representatives from the New Mexico Elevation Data Planning and Acquisition Subcommittee to the New Mexico Geospatial Advisory Committee of the DoIT gave a presentation to the STTC about statewide LIDAR acquisition. LIDAR is light detection and ranging, sometimes called 3D laser scanning or laser elevation profiling. LIDAR measures distances to the Earth using laser pulses. Processed pulses give precise 3D information about surface shape and features, resulting in a dense, detail-rich cloud of elevation points.

Mike Inglis, New Mexico Geospatial Advisory Committee, provided the committee with several examples and images produced by LIDAR. The technology has many applications and can be beneficial in the mapping of: watersheds, drainage, irrigation, flooding, water resource protection and delivery, economic development and tourism, wildfire and urban impacts, urban growth and planning, forest management, energy development, homeland security and defense, tribal lands and agricultural demands. Mr. Inglis highlighted several projects around the state that have used LIDAR. LIDAR acquisition has been set as a 2016 legislative priority for the New Mexico Geospatial Advisory Committee.

The panel addressed the following inquiries from the STTC:

- background on the development of the technology;
- differences between topography and LIDAR technology;
- the estimated cost for statewide surveying;
- the potential for fund matching from federal grants, counties and municipalities; and
- the need for a formal proposal for a legislative funding request.

#### ***Motion 1***

Upon a motion duly made and seconded, the committee voted to approve the minutes from the September meeting.

#### **Adjournment**

There being no further business before the committee, the fourth meeting of the STTC adjourned at 12:06 p.m.